

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of  
CALIFORNIA WATER SERVICE  
COMPANY (U60W), a California  
corporation, for an order (1) authorizing  
it to increase rates for water service by  
\$94,838,100 or 16.5% in test year 2017,  
(2) authorizing it to increase rates by  
\$22,959,600 or 3.4% on  
January 1, 2018, and \$22,588,200 or  
3.3% on January 1, 2019, in accordance  
with the Rate Case Plan, and  
(3) adopting other related rulings and  
relief necessary to implement the  
Commission's ratemaking policies.

A.15-07-015  
(Filed July 9, 2015)

**OPENING BRIEF  
OF THE OFFICE OF RATEPAYER ADVOCATES**

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## **SUMMARY OF RECOMMENDATIONS**

- California Water Service Company (“Cal Water”) should be required to file escalation/attrition advice letters for each district proposing new revenue requirements and corresponding revised tariff schedules regardless of whether the filing results in an increase or decrease in tariff rates. These adjustments ensure ratepayers pay just and reasonable rates in the 2018 and 2019 attrition years.
- Cal Water’s proposal to exclude the pro forma earnings test and adopt fixed amounts in its escalation/attrition filings should be rejected. The earnings test is an integral part of the escalation/attrition advice letter procedure because without the earnings test, the Commission would not know whether the utility is over- or under-earning.
- The Commission should adopt the following ordering paragraph concerning escalation/attrition advice letters:

For escalation years 2018 and 2019, California Water Service shall file Tier 2 advice letters in conformance with General Order 96-B proposing new revenue requirements and corresponding revised tariff schedules for each ratemaking area. The filing shall include rate procedures set forth in the Commission’s Rate Case Plan (Decision 07-05-062) for Class A Water Utilities and shall include appropriate supporting workpapers. The revised tariff schedules shall take effect no earlier than January 1, 2018 and January 1, 2019, respectively and shall apply to service rendered on and after their effective dates. The proposed revisions to revenue requirements and rates shall be reviewed by the Commission’s Water Division. The Water Division shall inform the Commission if it finds that the revised rates do not conform to the Rate Case Plan, this order, or other Commission decisions, and if so, reject the filing.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CALIFORNIA WATER SERVICE  
COMPANY (U60W), a California  
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it to increase rates for water service by  
\$94,838,100 or 16.5% in test year 2017,  
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**OPENING BRIEF  
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**I. INTRODUCTION AND BACKGROUND**

Pursuant to Rule 13.11 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the Office of Ratepayer Advocates (“ORA”) files this opening brief in Application (“A.”) 15-07-015.

California Water Service Company (“Cal Water” or “CWS”) filed A.15-07-015 on July 9, 2015. In its Application, Cal Water requests authorization to increase rates for water service by \$94,838,100 or 16.5% in test year 2017, \$22,959,600 or 3.4% on January 1, 2018, and \$22,588,200 or 3.3% on January 1, 2019.<sup>1</sup>

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<sup>1</sup> See Application (“A.”) 15-07-015, Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a California corporation, for an order (1) authorizing it to increase rates for water service by \$94,838,100 or 16.5% in test year 2017, (2) authorizing it to increase rates by \$22,959,600 or 3.4% on January 1, 2018, and \$22,588,200 or 3.3% on January 1, 2019, in accordance with the Rate Case Plan, and (3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies, July 9, 2015.

ORA and Cal Water, together with other settling parties, executed a settlement agreement on September 2, 2016, that if adopted by the Commission resolves all issues presented in this proceeding with the exception of the escalation/attrition filings for 2018 and 2019. ORA now files this Opening Brief in order to address this issue.<sup>2</sup>

## **II. PROCEDURAL HISTORY**

Cal Water filed its General Rate Case (“GRC”) A.15-07-015 along with its opening testimony on July 9, 2015 pursuant to Decision (“D.”) 07-05-062 (“Rate Case Plan”), seeking an order (1) authorizing it to increase rates for water service by \$94,838,100 or 16.5% in test year 2017, (2) authorizing it to increase rates by \$22,959,600 or 3.4% on January 1, 2018, and \$22,588,200 or 3.3% on January 1, 2019, and (3) several special requests. On February 17, 2016, ORA filed a motion requesting an extension of time to serve testimony. The Motion was granted by Administrative Law Judge (“ALJ”) Jeanne McKinney on February 19, 2016.<sup>3</sup> ORA served its report on March 2, 2016. Testimony was also submitted by the following intervenors on March 18, 2016: City of Visalia, Leona Valley Town Council, City of Bakersfield, Kern County, County of Lake, and Jeffrey Young (Redwood Valley). Timothy Groover-Merrick (Kern River Valley) served his opening testimony on March 24, 2016.<sup>4</sup> Cal Water and Jeffrey Young served rebuttal testimony on April 28, 2016.

A Prehearing Conference was held on September 21, 2015 at 9:00 a.m. at the Commission’s headquarters located in San Francisco, California. An informational workshop was held on February 10, 2016 at 10:00 a.m. at the Commission’s headquarters.<sup>5</sup> Public Participation Hearings (“PPHs”) were held on March 22, 2016 at

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<sup>2</sup> The South Bakersfield Water Treatment Plant was also a litigated issue. However, ORA and Cal Water have entered into a settlement agreement that resolves this issue. Therefore ORA is not discussing this issue in this brief, but reserves its right to respond to any comments as part of its Reply Brief.

<sup>3</sup> E-mail Ruling of ALJ McKinney dated February 19, 2016 changed the due date for the parties’ testimonies to the following: ORA’s testimony was due on March 2, 2016; Intervenors’ testimony was due on March 18, 2016, and Cal Water’s rebuttal testimony was due on April 28, 2016.

<sup>4</sup> E-mail Ruling of ALJ McKinney dated April 1, 2016 granted Timothy Groover Merrick’s motion for extension of time to serve opening testimony providing a new due date of March 25, 2016.

<sup>5</sup> A telephonic conference line was provided for parties that were not able to attend the workshop in person.

6:30 p.m. in the City of Bakersfield, California; on March 23, 2016 at 4:00 p.m. in the City of Lake Isabella; on March 24, 2016 at 5:00 p.m. in the City of Palmdale, California; on April 26, 2016 at 6 p.m. in the City of Chico, California; April 27, 2016 at 6:30 p.m. in Marysville, California; April 28, 2016 at 6:00 p.m. in the City of Dixon, California; August 23, 2016 at 6:00 pm at Guerneville, California; and August 25, 2016 at 1:00 p.m. and 6:00 p.m. at Lucerne, California.<sup>6</sup> A telephonic Status Conference was held on July 6, 2016 at 10:30 a.m. with ALJs Jeanne McKinney and Dan Burcham.<sup>7</sup>

An Evidentiary Hearing was held on July 18, 2016 in which the South Bakersfield Water Treatment Plant was litigated by the City of Bakersfield and Cal Water. A telephonic status conference was held on August 17, 2016 at 10:00 a.m. in which the remaining schedule for the filing of the settlement motion, proposed settlement agreement, and briefing schedule was established.<sup>8</sup>

Pursuant to Rule 12.1(b), the Parties convened settlement conferences beginning on May 3, 2016, with notice and opportunity to participate provided to all interested persons. The following representatives of the parties were in attendance for the May 3, 2016 settlement conference and for various settlement conferences that followed: Cal Water, ORA, City of Bakersfield, City of Visalia, County of Lake, Leona Valley Town Council, County of Kern, Jefferey Young, California Water Utility Council, City of Chico,<sup>9</sup> and Timothy Groover-Merrick.

The proposed settlement agreement was executed by the settling parties on September 2, 2016. The settlement agreement resolves all contested issues as stated in

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<sup>6</sup> Addition PPHs are scheduled on the following dates at these locations: (1) September 6, 2016 at 6:00 p.m. at Montebello, California; (2) September 7, 2016 at 6:00 p.m. at West Lake Village, California; (3) September 8, 2016 at 6:00 p.m. at Visalia, California; and (4) September 14 at 6:00 p.m. at King City, California. *See Administrative Law Judge's Ruling Setting Public Participation Hearings* dated August 22, 2016.

<sup>7</sup> During the July 6, 2016 telephonic status conference, ALJ McKinney notified the parties that she will no longer be presiding over the proceeding and ALJ Dan Burcham will be presiding over the case going forward.

<sup>8</sup> *See* Status Conference Transcript, Vol. 8.

<sup>9</sup> The City of Chico participated in the May 3, 2016 settlement conference call but did not participate in subsequent settlement discussions.

the Scoping Memo issued in this proceeding on January 7, 2016, with the exception of Escalation/Attrition filings for 2018 and 2019.

### **III. ESCALATION/ATTRITION FILINGS FOR 2018 AND 2019**

The main point of contention regarding the escalation/attrition year filings is whether a filing is required if application of the escalation/attrition advice letter procedures outlined in the Rate Case Plan for Class A water utilities results in a decrease in rates. ORA recommends that the escalation/attrition year filing should be required whether the application of the escalation/attrition advice letter procedures including the earnings test result in an increase or a decrease in rates. The purpose of this recommendation is to ensure that ratepayers pay just and reasonable rates until the Commission adopts a new test year revenue requirement in a subsequent proceeding.

The Commission should require escalation/attrition year filings for all districts whether Cal Water is over or under-earning.<sup>10</sup> The Commission has previously adopted this recommendation, finding that it serves the public interest by protecting ratepayers and ensuring the provision of safe and reliable utility service and infrastructure at reasonable rates.<sup>11</sup> As the Commission stated in D.15-04-007, “[b]y allowing water utilities to pick and choose what districts it files escalation year filings for, a utility may conceal over-earning by choosing not to file an escalation filing for a district that would be entitled to a rate decrease.”

Furthermore, in D.15-04-007, the Commission stated that “[d]eviating from optional escalation filings to requiring escalation filings for every district is justified because it serves the public interest by protecting ratepayers and ensures the provision of safe, reliable utility service and infrastructure at reasonable rates from utilities.”<sup>12</sup> Therefore, the Commission should order Cal Water to submit escalation/attrition year filings for every district regardless of whether it is under or over-earning.

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<sup>10</sup> See Exhibit ORA-1 at pp 50-51; and Exhibit CWS-109 at p. 10.

<sup>11</sup> See D.15-04-007, p. 37, Finding of Fact 15.

<sup>12</sup> *Id* at p. 25.

**A. Pro Forma Earnings Test Must be Required to Ensure that Ratepayers Pay Just and Reasonable Rates.**

Cal Water recommends that the pro forma earnings test be excluded from the escalation/attrition filings.<sup>13</sup> Instead, Cal Water recommends the Commission adopt fixed amounts not subject to an earnings test similar to Pacific Gas & Electric Company (“PG&E”).<sup>14</sup> However, eliminating the pro forma earnings test will not ensure reasonable rates.

ORA disagrees with Cal Water’s recommendation as there is no evidence sufficient for the Commission to remove the pro forma earnings test that is currently required. The pro forma earnings test is required to ensure that ratepayers pay just and reasonable rates until the Commission adopts a new test year revenue requirement in a subsequent proceeding. In D.07-05-062, the Commission stated that each decision shall include standard ordering paragraphs providing for escalation year increases subject to an earnings test unless deviation is otherwise expressly justified.<sup>15</sup> However, no justification for eliminating the pro forma earnings test is warranted in this proceeding.

Cal Water’s justification for not requiring the pro forma earnings test is that it “provides a balanced approach for both ratepayers and stockholders and ensures that the rate increases and decrease determined in accordance with all other requirements set forth in D.07-05-062.”<sup>16</sup> Cal Water further alleges that since water utilities have the discretion to file attrition year rate increases, and not file attrition year rate decreases, requiring attrition filings regardless subject to the filing requirements in D.07-05-062, excluding the pro forma earnings’ test, will further the Commission’s policy of establishing rates that are fair and reasonable.<sup>17</sup> However, Cal Water makes no attempt to justify or explain how elimination of the pro forma earnings test would ensure that the rates are reasonable.

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<sup>13</sup> Exhibit CWS-109 at p. 11.

<sup>14</sup> See Exhibit CWS-109, California Water Service Company Book One – General Rebuttal (Corrected) at p. 11

<sup>15</sup> See D.07-05-062 at Appendix A, p. A-13.

<sup>16</sup> Exhibit CWS-109 at p. 11.

<sup>17</sup> *Id.*

The very function of the pro forma earnings test is to ensure that the proposed rate increase or decrease submitted in the escalation/attrition year filings are reasonable and in the ratepayer's best interest. The pro forma earnings test is required in order to determine whether the escalation/attrition amount should result in an increase or decrease in tariff rates. Without the pro forma earnings test, the Commission could not determine whether the company is over or under-earning. A Tier 2 advice letter should be filed which includes all calculations and documentation necessary to support the requested rate change.<sup>18</sup>

In D.07-05-062, the Commission required that escalation year increases be subject to an earnings test.<sup>19</sup> Furthermore, in D.04-06-018 the Commission instructed Cal Water that "[a]ll advice letters seeking such attrition year increases shall follow the attrition requirements, including earnings test and amount of increase, set in the last GRC for that district."<sup>20</sup> Therefore, the earnings test must be required in order to ensure that the rate adjustments proposed by the escalation/attrition filings are reasonable.

**B. Cal Water's Request for Similar Treatment as Pacific Gas & Electric Company's Attrition Filings as Stated in D.14-08-032 is Unfounded and Must be Denied.**

In its rebuttal testimony, Cal Water asserts that "[a]s set forth in D.14-08-032, Appendix D, PG&E's attrition year rate adjustments are fixed amounts not subject to an earnings test."<sup>21</sup> Cal Water further states that not requiring the pro forma earnings test is consistent with the Commission's policy for the energy utility post-test year attrition rate adjustment ("ARA") mechanism.<sup>22</sup> This request is unfounded and should be disregarded. This request is inconsistent with the recently issued Commission decisions addressing escalation/attrition filings for water utilities that require a pro forma earnings test for all

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<sup>18</sup> See D.07-05-062 at Appendix A, p. A-19. Please note that D.07-05-062 and General Order 96-B require Tier 1 advice letters, but the more recent Cal Am decisions D.15-04-007 and D.12-06-016 require Tier 2 advice letters.

<sup>19</sup> See D.07-05-062, Appendix at p. A-13.

<sup>20</sup> See D.04-06-018 at p. 26.

<sup>21</sup> Exhibit CWS-109 at p. 13.

<sup>22</sup> *Id.*

escalation/attrition filings,<sup>23</sup> and inconsistent with the escalation/attrition procedures adopted for all Class A water utilities in the Rate Case Plan.<sup>24</sup> Therefore, the Commission should continue to uphold its requirement that escalation/attrition year filings include a pro forma earnings test.

**C. The Commission Should Expressly Order Cal Water to File Escalation/Attrition Filings for 2018 and 2019 Subject to an Earnings Test.**

D.07-05-062 states that each GRC decision shall include standard ordering paragraphs providing for escalation year increases subject to an earnings test, unless deviation is otherwise expressly justified in the decision.<sup>25</sup> As previously stated, there is no justification for excluding the pro forma earnings test from the escalation/attrition year filings. Therefore, ORA requests that the Commission include the following ordering paragraph in its decision that will be issued in this proceeding:

For escalation years 2018 and 2019, California Water Service Company shall file Tier 2 advice letters in conformance with General Order 96-B proposing new revenue requirements and corresponding revised tariff schedules for each ratemaking area. The filing shall include rate procedures set forth in the Commission's Rate Case Plan (Decision 07-05-062) for Class A Water Utilities and shall include appropriate supporting workpapers. The revised tariff schedules shall take effect no earlier than January 1, 2018 and January 1, 2019, respectively and shall apply to service rendered on and after their effective dates. The proposed revisions to revenue requirements and rates shall be reviewed by the Commission's Water Division. The Water Division shall inform the Commission if it finds that the revised rates do not conform to the Rate Case Plan, this order, or other Commission decisions, and if so, reject the filing.

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<sup>23</sup> See D.12-06-016 Ordering Paragraph 7, D.15-04-007 Ordering Paragraph 8 and 13, and D.16-06-004, Ordering Paragraph 8.

<sup>24</sup> D.07-05-062, Attachment A, p. A-18 through A-20.

<sup>25</sup> See D.07-05-062, Appendix at p. A-13.

The Commission included similar language in Cal-Am's 2012 and 2015 GRCs, D.12-06-016 and D.15-04-007 and in San Jose Water Company's 2015 GRC D.16-06-004<sup>26</sup> requiring that escalation/attrition year filings be submitted as Tier 2 advice letters in conformance with General Order 96-B proposing new revenue requirements and corresponding revised tariff schedules for each district.<sup>27</sup> Therefore, the Commission should include a similar ordering paragraph in its decision in this proceeding.

#### IV. CONCLUSION

For the reasons stated herein, ORA requests that the Commission make it mandatory that Cal Water submit escalation/attrition filings for all districts whether it is under or over-earning and that the escalation/attrition filings include the pro forma earnings test in order to determine the reasonableness of the requested rate increases or decreases for each district.

Respectfully submitted,

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<sup>26</sup> See D.12-06-016 Ordering Paragraph 7, D.15-04-007 Ordering Paragraph 8 and 13 and Finding of Facts 14 and 15 and Conclusions of Law 18 through 22, and D.16-06-004, Ordering Paragraph 8.

<sup>27</sup> *Id.*